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Attorneys for Defendant and Counter Claimant Acacia Communications, Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**ViaSat, Inc.,**

*a Delaware corporation,*

Plaintiff

and Counter Defendant,

v.

**Acacia Communications, Inc.,**

*a Delaware corporation,*

Defendant

and Counter Claimant

Case No. 3:16-cv-00463-BEN-JMA

**THIRD DECLARATION OF  
STUART V. C. DUNCAN SMITH**

Judge: Hon. Roger T. Benitez

Mag. Judge: Hon. Jan M. Adler

Date: March 12, 2018

Time: 10:30 a.m.

Courtroom: 5A

1 I, Stuart V. C. Duncan Smith, declare:

2 1. I am an attorney licensed to practice in the Commonwealth of  
3 Massachusetts and an associate of the law firm of Wolf, Greenfield & Sacks P.C.,  
4 which represents defendant and counter claimant Acacia Communication, Inc.  
5 (“Acacia”) in the above-referenced action filed by plaintiff and counter defendant  
6 ViaSat, Inc. (“ViaSat”). I have been admitted *pro hac vice* in this matter. I make this  
7 declaration in support of Acacia’s Motion To Strike and Exclude Certain Opinions of  
8 ViaSat’s Experts. I am familiar with the facts set forth in this Declaration and could  
9 testify competently to their truth if called as a witness.

10 2. I reattach here some, but not all, of the exhibits to Acacia’s January 17,  
11 2018 Motion for Partial Summary Judgment Regarding Damages (D.I. 75) and January  
12 26, 2018 Motion for Summary Judgment Regarding No Liability (D.I. 83). These  
13 exhibits have the same exhibit numbers that they were assigned previously. New  
14 exhibits start at exhibit number 42.

15 3. Attached as Exhibit 1 is a copy of the IP Core Development and License  
16 Agreement between ViaSat and Acacia, dated November 20, 2009, entered as  
17 Deposition Exhibit No. 107. An identical copy was filed as Exhibit 1 to Acacia’s  
18 January 17, 2018 Motion for Partial Summary Judgment Regarding Damages (D.I. 75).

19 4. Attached as Exhibit 2 is a copy of the Expert Report of Stephen D.  
20 Prowse, Ph.D., CFA, dated October 27, 2017, with Corrected Designation dated  
21 October 30, 2017. An identical copy was filed as Exhibit 2 to Acacia’s January 17,  
22 2018 Motion for Partial Summary Judgment Regarding Damages (D.I. 75). [FILED  
23 UNDER SEAL]

24 5. Attached as Exhibit 14 is a copy of the Expert Report of Ivan Djordjevic,  
25 Ph.D., dated November 21, 2017. An identical copy was filed as Exhibit 14 to  
26 Acacia’s January 26, 2018 Motion for Summary Judgment Regarding No Liability (D.I.  
27 83). [FILED UNDER SEAL]  
28

1           6.     Attached as Exhibit 15 is a copy of the Expert Report of Dr. Alexander  
2 Vardy, dated November 21, 2017. An identical copy was filed as Exhibit 15 to  
3 Acacia's January 26, 2018 Motion for Summary Judgment Regarding No Liability (D.I.  
4 83). [FILED UNDER SEAL]

5           7.     Attached as Exhibit 16 is a copy of the Opening Report of Professor  
6 Krishna Narayanan, Ph.D., dated October 27, 2017. An identical copy was filed as  
7 Exhibit 16 to Acacia's January 26, 2018 Motion for Summary Judgment Regarding No  
8 Liability (D.I. 83). [FILED UNDER SEAL]

9           8.     Attached as Exhibit 42 is a copy of the Rebuttal Expert Report of  
10 Stephen D. Prowse, Ph.D., CFA, dated November 21, 2017. [FILED UNDER SEAL]

11          9.     Attached as Exhibit 43 is a copy of excerpts of the condensed transcript  
12 of the December 8, 2017 deposition of Dr. Krishna Narayanan. [FILED UNDER  
13 SEAL]

14          10.    Attached as Exhibit 44 is a copy of excerpts of the condensed transcript  
15 of the December 12, 2017 deposition of Ivan Djordjevic, Ph.D. [FILED UNDER  
16 SEAL]

17          11.    Attached as Exhibit 45 is a copy of excerpts of the condensed transcript  
18 of the July 26, 2017 deposition of Russell Fuerst. [FILED UNDER SEAL]

19          12.    Attached as Exhibit 46 is a copy of Acacia's Trade Secret Identification,  
20 dated January 21, 2016. [FILED UNDER SEAL]

21          13.    Attached as Exhibit 47 is a copy of excerpts of the condensed transcript  
22 of the November 30, 2017 deposition of Stephen D. Prowse, Ph.D., CFA. [FILED  
23 UNDER SEAL]

24          14.    Attached as Exhibit 48 is a copy of the Supplemental Report of Professor  
25 Krishna Narayanan, Ph.D., dated November 8, 2017. [FILED UNDER SEAL]

26          15.    Attached as Exhibit 49 is a copy of an Acacia presentation entitled  
27 "AC400 Project Review." [FILED UNDER SEAL]  
28

1           16. I have reviewed and am familiar with the contents of the above-listed  
2 documents.

3           17. The foregoing exhibits appear at the following pages:

Exhibit	Page(s)
1	1-13
2	14-89
14	90-187
15	188-407
16	408-612
42	613-655
43	656-667
44	668-683
45	684-685
46	686-689
47	690-692
48	693-695
49	696-711

13           I declare under penalty of perjury that the foregoing is true and correct to the  
14 best of my knowledge and belief.

15  
16 Date: February 1, 2018

By: s/Stuart V. C. Duncan Smith  
Stuart V. C. Duncan Smith

**CERTIFICATE OF SERVICE**

I certify that today I am causing to be served the foregoing document by CM/ECF notice of electronic filing upon the parties and counsel registered as CM/ECF Users. I further certify that am causing the foregoing document to be served by electronic means via email upon counsel for ViaSat, Inc., per the agreement of counsel.

Date: February 1, 2018

*s/Michael A. Albert*

Michael A. Albert